

REMARKS/ARGUMENTS

Favorable reconsideration of this application is respectfully requested.

The specification is amended by the present response to clarify the paragraph at page 1, lines 16-25, to address the objection thereto.

Claims 1-15 are pending in this application. Claims 16-19 are canceled by the present response without prejudice.

Claims 1-3 and 12 were provisionally rejected under 35 U.S.C. § 101 as claiming the same invention as claims 1, 2, and 24-27 of copending U.S. application serial No. 10/624,555 (which is now U.S. patent 7,056,626). Claims 16-19 were rejected under 35 U.S.C. § 102(b) as anticipated by U.S. patent 6,057,063 to Liebmann et al. (herein "Liebmann"). Claim 19 was rejected under 35 U.S.C. § 102(e) as clearly anticipated by U.S. patent 6,749,971 to Lukanc et al. (herein "Lukanc"). Claims 1-3 and 12 were rejected under 35 U.S.C. § 102(e) as anticipated by U.S. patent 10/624,555 to Taniguchi et al. (now U.S. patent 7,056,626). Claims 1-19 were provisionally rejected on the grounds of non-statutory obviousness-type double patenting as unpatentable over claims 1-31 of copending U.S. application serial No. 10/624,555 (now U.S. patent 7,056,626).

Addressing first the rejection of claims 16-19 under 35 U.S.C. § 102(b) as anticipated by Liebmann, and the rejection of claim 19 under 35 U.S.C. § 102(e) as clearly anticipated by Lukanc, those rejections are obviated by the response as claims 16-19 are canceled by the present response without prejudice.

Addressing now the rejection of claims 1-3 and 12 under 35 U.S.C. § 101 as claiming the same invention as claims 1, 2, and 24-27 of U.S. application serial No. 10/624,555 (U.S. patent 7,056,626), and the rejection of claims 1-3 and 12 under 35 U.S.C. § 102(e) as anticipated by U.S. application serial No. 10/624,555 (U.S. patent 7,056,626), those rejections are traversed by the present response.

Applicants respectfully submit the claims in the present application are not identical or met by U.S. application serial No. 10/624,555 (U.S. patent 7,056,626).

Independent claim 1 in the present application recites a mask that “makes an intensity distribution of the light beam into an inverse peak pattern that a peak value has a minimum intensity”. Claims 1 and 2 in U.S. application serial No. 10/624,555 (U.S. patent 7,056,626) do not recite that limitation, and in fact recite increasing a light intensity towards a circumference to a maximum, which is in fact contrary to claims 1 and 2 in the present application.

Further, with respect to independent claim 12, claims 24-27 of U.S. application serial No. 10/624,555 (U.S. patent 7,056,626) do not recite “generating an inverse peak pattern having a peak value at a light intensity substantially zero at a phase shift portion of a phase shift mask by using this mask”. Instead, claims 24-27 again recite increasing a light intensity towards a circumference of an area to be a maximum.

Claims 24-27 also do not disclose an inverse peak pattern having a peak value that a light intensity is substantially zero at a phase shift portion.

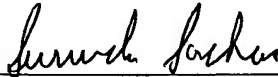
In view of these foregoing comments, Applicants respectfully submit claims 1-3 and 12 distinguish from 1, 2, and 24-27 in U.S. application serial No. 10/624,555 (U.S. patent 7,056,626).

Addressing now the provisional rejection of claims 1-19 on the grounds of non-statutory obviousness-type double patenting as unpatentable over claims 1-31 of U.S. application serial No. 10/624,555 (U.S. patent 7,056,626), that rejection is obviated by the present response. Specifically, filed with the present response is a Terminal Disclaimer over U.S. patent 7,056,626, which is believed to address the double patenting rejection.

As no other issues are pending in this application, it is respectfully submitted that the present application is now in condition for allowance, and it is hereby respectfully requested that this case be passed to issue.

Respectfully submitted,

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